

Tax Type: MOTOR VEHICLE USE TAX  
Issue: Private Vehicle Use Tax - Value Exceeds \$15,000

THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF ILLINOIS	)	
	)	
v.	)	Docket #
	)	
TAXPAYER	)	Account #
	)	
	)	Assessment #
Taxpayer	)	
	)	

**SYNOPSIS:**

**FINDINGS OF FACT:**

1. THE DEPARTMENT'S PRIMA FACIE CASE WAS ESTABLISHED BY ADMISSION INTO EVIDENCE OF DEPARTMENT'S EXHIBITS 1 THROUGH 3.
2. ON SEPTEMBER 13, 1994, THE TAXPAYER PURCHASED A 1991 MERCEDES BENZ FROM A PRIVATE INDIVIDUAL. ON SEPTEMBER 14, 1994 THE DEPARTMENT

RECEIVED A VEHICLE USE TAX RETURN FROM THE TAXPAYER SHOWING TAX PAID IN THE AMOUNT OF \$215.00. DEPT. EX. NO. 1

3. THE DEPARTMENT ISSUED A NOTICE OF TAX LIABILITY ON JANUARY 6, 1995 TO THE TAXPAYER IN THE AMOUNT OF \$545.14 FOR ADDITIONAL TAX AND INTEREST DUE ON THE PURCHASE. DEPT. EX. NO. 1

4. ON JANUARY 24, 1995, A PROTEST WAS RECEIVED IN THE MATTER. A HEARING WAS HELD PURSUANT TO THE PROTEST. DEPT EX. NOS. 2, 3

5. THE TAXPAYER PURCHASED THE AUTOMOBILE FROM A PRIVATE INDIVIDUAL AND DID NOT GET A BILL OF SALE. TR. P. 6

6. THE TAXPAYER WROTE A CHECK IN THE AMOUNT OF \$14,950.00 FOR THE PURCHASE OF THE AUTOMOBILE. TAXPAYER EX. NO. 1, TR. PP. 6-7

CONCLUSIONS OF LAW:

THE ILLINOIS CONSTITUTION PROVIDES FOR THE IMPOSITION OF NON-PROPERTY TAXES PURSUANT TO ARTICLE IX SECTIONS ONE AND TWO OF THE ILLINOIS CONSTITUTION OF 1970. THEY STATE:

§ 1. State Revenue Power

THE GENERAL ASSEMBLY HAS THE EXCLUSIVE POWER TO RAISE REVENUE BY LAW EXCEPT AS LIMITED OR OTHERWISE PROVIDED IN THIS CONSTITUTION. THE POWER OF TAXATION SHALL NOT BE SURRENDERED, SUSPENDED, OR CONTRACTED AWAY.

§ 2. Non-Property Taxes-Classification, Exemptions, Deductions, Allowances and Credits

IN ANY LAW CLASSIFYING THE SUBJECTS OR OBJECTS OF NON-PROPERTY TAXES OR FEES, THE CLASSES SHALL BE REASONABLE AND THE SUBJECTS AND OBJECTS WITHIN EACH CLASS SHALL BE TAXED UNIFORMLY. EXEMPTIONS, DEDUCTIONS, CREDITS, REFUNDS AND OTHER ALLOWANCES SHALL BY REASONABLE.

THE ILLINOIS LEGISLATURE HAS ENACTED THE RETAILER'S OCCUPATION TAX ACT AND RELATED LAWS PURSUANT TO THE GRANT OF POWER BY THE CONSTITUTION. THE ACTS IMPOSE A TAX ON THE SALE AND USE OF PERSONAL PROPERTY. AT ISSUE HERE IS 625 ILCS 5/3-1001 WHICH IMPOSES A TAX FOR USING AN AUTOMOBILE IN ILLINOIS. IT STATES IN PART:

A TAX IS HEREBY IMPOSED ON THE PRIVILEGE OF USING, IN THIS STATE, ANY MOTOR VEHICLE AS DEFINED IN SECTION 1-146 OF THIS CODE ACQUIRED BY PURCHASE, AND HAVING A YEAR MODEL DESIGNATION PRECEDING THE YEAR OF APPLICATION FOR TITLE BY 5 OR FEWER YEARS PRIOR TO OCTOBER 1, 1985 AND 10 OR FEWER YEARS ON AND AFTER OCTOBER 1, 1985 AND PRIOR TO JANUARY 1, 1988. ON AND AFTER JANUARY 1, 1988, THE TAX SHALL APPLY TO ALL MOTOR VEHICLES WITHOUT REGARD TO MODEL YEAR....

EXCEPT AS HEREIN AFTER PROVIDED, BEGINNING JANUARY 1, 1988, THE RATE OF TAX SHALL BE AS FOLLOWS FOR TRANSACTIONS IN WHICH THE SELLING PRICE OF THE MOTOR VEHICLE IS LESS THAN \$15,000:

NUMBER OF YEARS TRANSPIRED AFTER MODEL YEAR OF MOTOR VEHICLE	APPLICABLE TAX
1 OR LESS	\$390
2	290
3	215
4	165
5	115
6	90
7	80
8	65
9	50
10	40
OVER 10	25

EXCEPT AS HEREINAFTER PROVIDED, BEGINNING JANUARY 1, 1988, THE RATE OF TAX SHALL BE AS FOLLOWS FOR TRANSACTIONS IN WHICH THE SELLING PRICE OF THE MOTOR VEHICLE IS \$15,000 OR MORE:

SELLING PRICE	APPLICABLE TAX
\$15,000-\$19,999	\$ 750
\$20,000-\$24,999	\$1,000
\$25,000-\$29,999	\$1,250
\$30,000 AND OVER	\$1,500

THE TAXPAYER TESTIFIED TO THE FACT THAT HE PAID LESS THAN \$15,000.00 FOR THE CAR. HE SUBMITTED A COPY OF THE CANCELLED CHECK TO A PRIVATE

INDIVIDUAL IN THE AMOUNT OF \$14,950.00, ISSUED ON SEPTEMBER 13, 1994. I FIND HIS TESTIMONY AND EVIDENCE CREDIBLE.

I RECOMMEND THAT NOTICE OF TAX LIABILITY, ACCOUNT NUMBER XXXXX, ASSESSMENT NUMBER XXXXX, BE WITHDRAWN.

RESPECTFULLY SUBMITTED,

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BARBARA S. ROWE  
ADMINISTRATIVE LAW JUDGE  
NOVEMBER 13, 1995